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Supreme Court of the United States

October Term, 1933

No. 531

LEO NEBBIA,

Appellant,

against

THE PEOPLE OF THE STATE OF NEW YORK,

Appellees.

(On appeal from the Court of Appeals of the State of New York.)

JOINT MOTION TO ADVANCE

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of Agriculture and Markets and
the Milk Control Board,
Albany, New York.

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Now come the respective parties to this appeal and jointly move this Honorable Court that this cause be transferred for hearing to the summary docket for the following reasons:

1. This matter comes before this Court on an appeal to review the determination of the Court of Appeals in the State of New York holding that Chapter 158 of the New York Laws of 1933, sometimes called the Milk Control Law, is constitutional in so far as it authorizes the fixing of a minimum price at which milk can be sold at retail. The highest court of the State of New York has affirmed the conviction of the appellant for selling milk at a lower price than the minimum price so fixed, and the question presented is whether there is constitutional objection to that conviction.

2. Statement as to jurisdiction was served by the appellant on September 30, 1933, and has been filed. No state-

ment opposing jurisdiction will be filed, and all parties believe that this appeal is within the jurisdiction of this Court.

3. The New York statute in question will expire by its terms on March 31, 1934, but it is probable that the Legislature which convenes soon after January first and ordinarily continues until some time in April will find it necessary either to continue this or to enact some other legislation to accomplish similar purposes. It is desirable that such legislation be drafted in the light of an authoritative decision as to the constitutional principles involved.

4. The States of New Jersey, Connecticut, Florida, Ohio Vermont and Wisconsin all have similar laws enacted within the present year for relief of the dairy industry. Other states are considering the enactment of such legislation. The interests of a vast number of people are affected and will be affected by these statutes and the orders made under them.

5. It is desirable that the constitutional questions involved be determined as promptly as is consistent with thorough presentation and deliberation. All the parties to this appeal respectfully request that this Honorable Court place this cause upon the summary docket for hearing on a day certain, preferably set about four weeks in advance.

Respectfully submitted,

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